

show cause, and the commission may serve a reply within 20 days from service of the response.

(3) If requested by the commission, or by a justice or judge at the time of filing a response, the court may allow oral argument on the commission's recommendation.

(c) **Costs.** The supreme court may award reasonable and necessary costs, including costs of investigation and prosecution, to the prevailing party. Neither attorneys' fees nor travel expenses of commission personnel shall be included in an award of costs. Taxable costs may include:

(1) court reporters' fees, including per diem fees, deposition costs, and costs associated with the preparation of the transcript and record; and

(2) witness expenses, including travel and out-of-pocket expenses.

Former Rule 2.140 added Sept. 13, 1984, effective Jan. 1, 1985 (458 So.2d 1110). Amended Oct. 8, 1992, effective Jan. 1, 1993 (609 So.2d 465); Oct. 5, 2000, effective Jan. 1, 2001 (780 So.2d 819). Renumbered from Rule 2.140 Sept. 21, 2006 (939 So.2d 966).

Rule 2.320. Continuing Judicial Education

(a) **Purpose.** This rule sets forth the continuing education requirement for all judges in the state judicial system.

(b) **Education Requirements.**

(1) **Applicability.** All Florida county, circuit, and appellate judges and Florida supreme court justices shall comply with these judicial education requirements. Retired judges who have been approved by the supreme court to be assigned to temporary active duty as authorized by section 25.073, Florida Statutes (1991), shall also comply with the judicial education requirement.

(2) **Minimum Requirements.** Each judge and justice shall complete a minimum of 30 credit hours of approved judicial education programs every 3 years. Two hours must be in the area of judicial ethics. In addition to the 30-hour requirement, every judge new to a level of trial court must complete the Florida Judicial College program in that judge's first year of judicial service following selection to that level of court; every new appellate court judge or justice must, within 2 years following selection to that level of court, complete an approved appellate-judge program. Credit for teaching a course for which mandatory judicial education credit is available will be allowed on the basis of 2 1/2 hours' credit for each instructional hour taught, up to a maximum of 5 hours per year.

(3) **Mediation Training.** Prior to conducting any mediation, a senior judge shall have completed a minimum of one judicial education course offered by the Florida Court Education Council. The course shall specifically focus on the areas where the Code of Judicial Conduct or the Florida Rules for Certified and Court-Appointed Mediators could be violated.

(c) **Course Approval.** The Florida Court Education Council, in consultation with the judicial conferences, shall develop approved courses for each state court jurisdiction. Courses offered by other judicial and legal education entities must be approved by the council before they may be submitted for credit.

(d) **Waiver.** The Florida Court Education Council is responsible for establishing a procedure for considering and acting upon waiver and extension requests on an individual basis.

(e) **Reporting Requirements and Sanctions.** The Florida Court Education Council shall establish a procedure for reporting annually to the chief justice on compliance with this rule. Each judge shall submit to the Legal Affairs and Education Division of the Office of the State Courts Administrator an annual report showing the judge's attendance at approved courses. Failure to comply with the requirements of this rule will be reported to the chief justice of the Florida supreme court for such administrative action as deemed necessary. The chief justice may consider a judge's or justice's failure to comply as neglect of duty and report the matter to the Judicial Qualifications Commission.

Former Rule 2.350 added Dec. 31, 1987, effective Jan. 1, 1988 (518 So.2d 258). Amended Oct. 8, 1992, effective Jan. 1, 1993 (609 So.2d 465); Nov. 3, 2005, effective Nov. 3, 2007 (915 So.2d 135). Renumbered from Rule 2.150 Sept. 21, 2006 (939 So.2d 966).

Rule 2.330. Disqualification of Trial Judges

(a) **Application.** This rule applies only to county and circuit judges in all matters in all divisions of court.

(b) **Parties.** Any party, including the state, may move to disqualify the trial judge assigned to the case on grounds provided by rule, by statute, or by the Code of Judicial Conduct.

(c) **Motion.** A motion to disqualify shall:

(1) be in writing;

(2) allege specifically the facts and reasons upon which the movant relies as the grounds for disqualification;

(3) be sworn to by the party by signing the motion under oath or by a separate affidavit; and

(4) include the dates of all previously granted motions to disqualify filed under this rule in the case and the dates of the orders granting those motions.

The attorney for the party shall also separately certify that the motion and the client's statements are made in good faith. In addition to filing with the clerk, the movant shall immediately serve a copy of the motion on the subject judge as set forth in Florida Rule of Civil Procedure 1.080.

(d) **Grounds.** A motion to disqualify shall show:

(1) that the party fears that he or she will not receive a fair trial or hearing because of specifically described prejudice or bias of the judge; or

(2) that the judge before whom the case is pending, or some person related to said judge by consanguinity or affinity within the third degree, is a party thereto or is interested in the result thereof, or that said judge is related to an attorney or counselor of record in the cause by consanguinity or affinity within the third degree, or that said judge is a material witness for or against one of the parties to the cause.

(c) **Time.** A motion to disqualify shall be filed within a reasonable time not to exceed 10 days after discovery of the facts constituting the grounds for the motion and shall be promptly presented to the court for an immediate ruling. Any motion for disqualification made during a hearing or trial must be based on facts discovered during the hearing or trial and may be stated on the record, provided that it is also promptly reduced to writing in compliance with subdivision (c) and promptly filed. A motion made during hearing or trial shall be ruled on immediately.

(f) **Determination — Initial Motion.** The judge against whom an initial motion to disqualify under subdivision (d)(1) is directed shall determine only the legal sufficiency of the motion and shall not pass on the truth of the facts alleged. If the motion is legally sufficient, the judge shall immediately enter an order granting disqualification and proceed no further in the action. If any motion is legally insufficient, an order denying the motion shall immediately be entered. No other reason for denial shall be stated, and an order of denial shall not take issue with the motion.

(g) **Determination — Successive Motions.** If a judge has been previously disqualified on motion for alleged prejudice or partiality under subdivision (d)(1), a successor judge shall not be disqualified based on a successive motion by the same party unless the successor judge rules that he or she is in fact not fair or impartial in the case. Such a successor judge may rule on the truth of the facts alleged in support of the motion.

(h) **Prior Rulings.** Prior factual or legal rulings by a disqualified judge may be reconsidered and vacated or amended by a successor judge based upon motion for reconsideration, which must be filed within 20 days of the order of disqualification, unless good cause is shown for a delay in moving for reconsideration or other grounds for reconsideration exist.

(i) **Judge's Initiative.** Nothing in this rule limits the judge's authority to enter an order of disqualification on the judge's own initiative.

(j) **Time for Determination.** The judge shall rule on a motion to disqualify immediately, but no later than 30 days after the service of the motion as set forth in subdivision (b). If not ruled on within 30 days of service, the motion shall be deemed granted, and the moving party may seek an order from the court directing the clerk to reassign the case.

Former Rule 2.160 added Oct. 8, 1992, effective Jan. 1, 1993 (609 So.2d 465). Amended July 10, 2003, effective Jan. 1, 2004 (851 So.2d 698). Oct. 7, 2004, effective Jan. 1, 2005 (893 So.2d 870). Renumbered from Rule 2.160 Sept. 21, 2006 (939 So.2d 966). Amended July 10, 2008, effective Jan. 1, 2009 (986 So.2d 560).

PART IV. JUDICIAL PROCEEDINGS AND RECORDS

Rule 2.410. Possession of Court Records

No person other than judges and authorized court employees shall remove court records as defined in rule 2.430 from the clerk's office except by order of the chief judge or chief justice upon a showing of good cause.

Former Rule 2.072 added June 27, 1996 (675 So.2d 1876). Renumbered from Rule 2.072 Sept. 21, 2006 (939 So.2d 966).

Court Commentary

1996 Adoption. This rule was written as a result of the problems being encountered in the removal of files from clerks' offices. While the purpose of the rule is to discourage the removal of court files, it is not intended to prohibit chief judges or the chief justice from issuing for good cause a general order providing that attorneys or authorized individuals may be allowed to check out files on a routine basis to assist in the administrative efficiency of a court. We note that section 28.13, Florida Statutes (1995), similarly prohibits the removal of files from clerks' offices.

Rule 2.420. Public Access to Judicial Branch Records

(a) **Scope and Purpose.** Subject to the rulemaking power of the Florida Supreme Court provided by article V, section 2, Florida Constitution, the following rule shall govern public access to the records of the judicial branch of government. The public shall have access to all records of the judicial branch of government, except as provided below.

(b) Definitions.

(1) "Records of the judicial branch" are all records regardless of physical form, characteristics, or means of transmission, made or received in connection with the transaction of official business by any judicial branch entity and consist of:

(A) "court records," which are the contents of the court file, including the progress docket and other similar records generated to document activity in a case; transcripts filed with the clerk; documentary exhibits in the custody of the clerk; and electronic